

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: ETHICON, INC.
PELVIC REPAIR SYSTEMS
PRODUCTS LIABILITY LITIGATION

MDL 2327

THIS DOCUMENT RELATES TO CASES
IDENTIFIED ON EXHIBIT A

ORDER AND SUGGESTION OF REMAND

Pursuant to 28 U.S.C. § 1407 and the Rules for Multidistrict Litigation promulgated thereunder, specifically Rule 10.1(b), the court suggests that the cases on Exhibit A be remanded to the United States District Courts from which they came, as identified on Exhibit A. The cases were transferred by the Judicial Panel on Multidistrict Litigation (“JPML”) and are related to MDL 2327 (“Ethicon MDL”), 2:12-md-2327, one of seven MDLs assigned to me by the JPML. The seven MDLs combined totaled over 100,000 cases since inception.

Of the approximately 39,616 cases originally filed in or transferred to the Ethicon MDL, 79 remain. Of the remaining 79 cases, 2 are listed on Exhibit A and are ready to be remanded to the jurisdictions from which they came. In particular, no MDL defendants remain in the *Warhol* case on Exhibit A. In both cases, the time to conduct discovery is complete and the parties have had time to file dispositive and *Daubert* motions, responses and replies.

For the convenience of the parties and in order to promote the final resolution of these cases, it appears to the court that the cases would be more expeditiously concluded in the venues

from which they arise. *Upon remand, I urge the receiving court to immediately set these cases for trial without reopening discovery. Further discovery will only result in unjust delay. Extensive development of these cases over a period of years has made such further action completely unnecessary.*

On or before **November 27, 2020 (7 days from the date of this order)**, the parties are **ORDERED** to confer and to file *in their individual case*, all documents from the main MDL that the parties jointly deem relevant to constitute an appropriate record for the receiving court to consider. When filing the documents from the main MDL, the parties are directed to use the CM/ECF event entitled “Designation of Record for MDL Transfers” (available under Civil > Other Filings > Other Documents). When completing the event, the “Main Document” should be the list of joint designations from the main MDL, and the “Attachments” should be each individual document on the joint designation list with the “Description” being the ECF number and a brief description of the document (i.e. ECF 96 – Defendant’s Motion for Summary Judgment).

The court **ORDERS** that upon receipt and filing of an order to remand from the Clerk of the JPML (hereinafter the “Transfer Date”), the Clerk of this court, pursuant to 28 U.S.C. § 1407, shall remand the cases to the jurisdictions identified on Exhibit A. If the cases remain pending on the Transfer Date, they must be remanded, and the parties shall bear the consequences in the receiving court of any failure to prepare an appropriate record as directed in this order. The parties and the receiving court are advised that all Pretrial Orders entered in this matter are available for review on the court’s website at www.wvsc.uscourts.gov/MDL/2327/orders.html, and the master docket sheet can be found on this court’s CM/ECF at 2:12-md-2327. *Finally, the court advises the parties that while the docket of these individual cases will be remanded to the receiving court, it*

is the parties' responsibility to follow the receiving court's procedure for identifying any individual motions that remain pending and in need of ruling.

On the Transfer Date, the Clerk is hereby **DIRECTED** to use the appropriate function in CM/ECF to extract the cases on Exhibit A and remand them to the jurisdictions identified on Exhibit A. After remand of the cases, the Clerk is **DIRECTED** to formally dismiss the cases and strike them from the docket of this court.

The court further **DIRECTS** that a copy of this Order and Suggestion of Remand and Exhibit A be filed in the cases on Exhibit A and sent to the Clerk of the MDL Panel and counsel of record or any unrepresented party.

ENTER: November 20, 2020

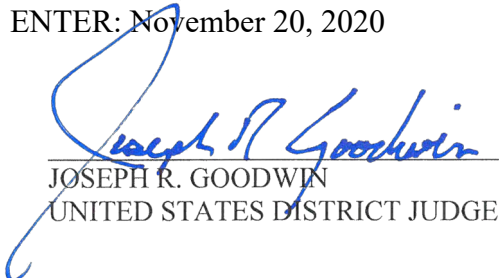

JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE

Exhibit A

	Case Number	Case Name	Venue
1	2:15-cv-06033	Warhol v. Anne Viselli, M.D.	D Vermont
2	2:13-cv-26013	Deatherage v. Johnson & Johnson, <i>et al.</i>	ED Missouri